

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13629 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of
the judgment ?

Whether this case involves a substantial question of
4 law as to the interpretation of the constitution of
India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**SINDHLAL MINESH LAKHBHAI
THRO' FATHER LAKHABHAI KARABHA
Versus
MAMLATDAR AND OTHERS**

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Appearance :

MR KETAN D SHAH for the Petitioner

Mr Krunal Pandya, Assistant Government Pleader for the respondents

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 21/06/2007

ORAL JUDGMENT

It is stated by Mr Krunal Pandya, learned Assistant Government Pleader that this petition was filed by the petitioner at the stage when the application of the petitioner was pending before the Mamlatdar for declaring him as a Member of the Scheduled Tribe community. However, the said application has now been decided and it is rejected by the Mamlatdar, respondent No.1 herein and the petitioner's request for issuance of the Caste Certificate is refused. He further states that in view of the rejection of the application for issuance of Caste Certificate, the petitioner has an alternative remedy by way of preferring appeal before the Collector.

Mr K.D.Shah, learned advocate for the petitioner does not dispute this position. He states that the petitioner will prefer the appeal within 2-3 days from today., He, however, states that last date for making application for admission is 22nd June 2007 and therefore if the petitioner's application is not submitted by tomorrow, the entire exercise will become futile. He, therefore, submits that the petitioner may be permitted to make application on the basis of he being a Member of Scheduled Tribe and the application of the petitioner may be ordered to be accepted and processed by respondent Nos.2 and 3.

Considering the aforesaid, this petition is required to be dismissed and it is dismissed without entering into the merits since the petitioner has alternative efficacious remedy by way of appeal before the Collector of the concerned District. It is, however, observed that the petitioner will be allowed to submit the application for admission on the basis he being a Member of Scheduled Tribe community and the same will be accepted and processed by respondents Nos.2 and 3. In the meanwhile, the petitioner shall file appeal before the appellate authority i.e. the Collector on or before 26th June 2007. Upon receipt of the appeal, the

Collector, in accordance with Circular dated 30.09.2005 decide it after granting adequate opportunity of hearing to the petitioner as early as possible and in any case not later than 15 days from the date of appeal.

The application submitted by the petitioner on the basis of he being a member of Scheduled Tribe community will be subject to final outcome of the appeal. Direct Service is permitted today.

(Akshay H Mehta, J.)

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